

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3201 of 2019**

Arising Out of PS. Case No.-56 Year-2018 Thana- BITHAN BAZAR District- Samastipur

BARHAM YADAV @ BRAHAMDEO YADAV S/o Late Ganeshi Yadav
Resident of Village- Tetrahi, P.S.- Bithan, District- Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Diwakar Prasad Karn
For the Respondent/s : Mr.Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

3 09-09-2019 Heard learned counsel for the appellant and
learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the SC/ST Act against the refusal of prayer for bail vide order dated 05.07.2019 passed by learned Special Judge, SC/ST Act, Samastipur in Bithan P.S. Case No. 56 of 2018 registered under Sections 302, 323, 504 and 506/34 of the Indian Penal Code and Sections 3(i)(r)(s) of the SC/ST Act.

Four accused persons including the appellant descended at the door of the informant and indulged in altercation over land dispute with his father. On protest made by his father, they assaulted him by means of leg and fist. When his mother rushed in his rescue, they shoved her away and appellant



Barham Yadav climbing on the chest of his father strangled his neck, resultantly he succumbed on the spot.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case due to land dispute. Grand-mother of the informant has sold out land to the accused Vishnu Yadav who happens to be brother of the appellant and in order to grab aforesaid land, informant has lodged this false and frivolous case against the appellant and others. Though appellant is said to have strangled the neck of deceased by climbing on his chest and other accused persons assaulted him by means of leg and fist, but the doctor conducting the autopsy of the cadaver of the deceased has not found any external injury on the person of the deceased and has opined the cause of the death as chronic lung disease and its complications. Aforesaid post mortem report eloquently rules out the prosecution case and complicity of the appellant in the occurrence. Appellant has no criminal antecedent and has been languishing in custody since 05.07.2019. Other co-accused persons, namely, Dev Narain Yadav, Indradev Yadav, Vishundev Yadav have been enlarged on bail by different co-ordinate Benches of this court.



Learned Spl. PP for the State opposed the prayer
for bail.

In the facts and circumstances of the case, the
above named appellant is directed to be enlarged on bail on
furnishing bail bond of Rs. 10,000/- (Ten thousand) with two
sureties of the like amount each to the satisfaction of the
learned Special Judge, SC/ST Act, Samastipur in connection
with Bithan P.S. Case No. 56 of 2018.

Accordingly, the impugned order is set aside and
appeal is allowed.

(Prakash Chandra Jaiswal, J)

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